

REMARKS

Claims 1-107 are cancelled; claims 108, 111 and 112 are amended; and claims 108-116 are pending in the application.

The specification is amended to update the "Related Patent Data" section to reflect issuance of the priority application.

The pending claims stand rejected as being either anticipated by Yates (claims 108-110 and 113-116), as being unpatentable over Yates in view of Callegari (claim 111), or as being unpatentable over Yates in view of Tsai (claim 112).

Applicant requests reconsideration of such rejections in light of the amendments and arguments presented herein.

Referring to claim 108, such is amended to recite a capacitor construction having a agglomerates in direct physical contact with an electrically insulative material, with such agglomerates being recited to include spaced islands, and being further recited to comprise one or more noble metals.

Amended claim 108 is not anticipated by Yates for at least the reason that Yates does not disclose agglomerates comprising one or more noble metals which include spaced islands in direct physical contact with an electrically insulative material. Claim 108 is also not rendered obvious by Yates for at least the reason that Yates is precluded from being utilized in an obviousness rejection of the present claims under 35 U.S.C. §103(c). Specifically, Yates qualifies as prior art only under subsection (e) of Section 102 of 35

U.S.C., and was owned by the assignee of the present application (Micron Technology, Inc.) at the time of the invention of the present application.

As amended claim 108 is not anticipated by Yates, and as Yates cannot be utilized in a §103 rejection of amended claim 108, the amended claim is allowable over Yates. Further, as Yates is the only reference cited against claim 108, amended claim 108 is believed to be in condition for allowance. Applicant therefore requests formal allowance of claim 108 in the Examiner's next action.

Claims 109, 110 and 113-116 depend from claim 108, and are therefore allowable for at least the reasons for which claim 108 is allowable.

Claims 111 and 112 stand rejected as being obvious in view of Yates in combination with other references. However, for reasons discussed above, Yates cannot be utilized in a §103 (i.e., obviousness) rejection of the claims of the present application. Accordingly, claims 111 and 112 are allowable over the references cited by the Examiner against such claims. Claims 111 and 112 have been placed in independent form, and are believed to be in condition for immediate allowance.

Claims 108-116 are allowable for the reasons discussed above, and Applicant therefore respectfully requests that the Examiner's next action be a Notice of Allowance.

Respectfully submitted,

Dated: 9/27/04

By:



David G. Latwesen, Ph.D.
Reg. No. 38,533